

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ralf Brederlow

Application No.: 10/714,536

Confirmation No.: 2199

Filed: November 13, 2003

Art Unit: 2813

For: POLYMER TRANSISTOR
ARRANGEMENT, INTEGRATED CIRCUIT
ARRANGEMENT AND METHOD FOR
PRODUCING A POLYMER TRANSISTOR
ARRANGEMENT

Examiner: C. E. Rodgers

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is pursuant to 37 CFR § 41.41(a), and is responsive to the Examiner's Answer mailed on January 18, 2007, in connection with the Appeal from the final rejection of the claims mailed May 26, 2006, in the above identified U.S. Patent application. As required under § 41.41(a), this Reply Brief is filed within two months of the Examiner's Answer.

No fees are believed due for the filing of this Reply Brief. However, if any fee is due, the Patent Office is authorized to charge such fee to Deposit Account No. 50-2215.

As described in Appellants' Appeal Brief, each of the claims under final rejection is patentable over the references cited by the Examiner. Appellant maintains each argument presented in the Brief. In particular, Appellant maintains that the applied references do not suggest "a drive circuit providing the first source/drain region with a voltage of sufficiently large magnitude and the gate region with a drain voltage of a sufficiently small magnitude, such that the polymer transistor has properties similar or identical to those of a Schottky diode."

In Section 10 of the Examiner's Answer, the Examiner asserts that Bao's statement "Systems with the device of the present invention will also include appropriate drive circuitry" (see col. 9, lines 33-34) include the drive circuit as claimed. Appellant respectfully disagrees. "[A]ppropriate drive circuitry" is an extremely broad term which in no way suggests "a drive circuit providing the first source/drain region with a voltage of sufficiently large magnitude and the gate region with a drain voltage of a sufficiently small magnitude, such that the polymer transistor has properties similar or identical to those of a Schottky diode," as required by the claimed invention.

The Examiner has taken the position that "the application of voltages comprise method limitations within an apparatus claims." The Examiner then also takes the inconsistent position that the drive circuit is a product-by-process limitation. Under either of these positions, the Examiner does not afford the entire drive circuit limitation patentable weight.

As set forth in Appellant's Appeal Brief, the limitation of "a drive circuit providing the first source/drain region with a voltage of sufficiently large magnitude and the gate region with a drain voltage of a sufficiently small magnitude such that the polymer transistor has properties similar or identical to those of a Schottky diode" is not a method or product-by-process limitation, but is instead a functional limitation.

McCarthy's Desk Encyclopedia of Intellectual Property defines a "product-by-process-claim as "[a] patent claim in which a product is claimed by defining the process by which the product is made." The claimed drive circuit is not "made" by providing the first source/drain region and the gate region with particular voltages, and thus is not is a product-by-process limitation. Rather, the drive circuit is defined in functional terms. MPEP 2173.05(g) states that "A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." Therefore the entire "drive circuit ... Schottky diode" limitation should be accorded patentable weight.

Finally, the Examiner again relies on *Ex parte Masham*. For the reasons set forth in Appellant's Appeal Brief, *Ex parte Masham* is not applicable to the present situation.

The other specific arguments relating to the patentability of the claims set forth in the Appeal Brief are maintained.

For at least the reasons set forth above, and those identified in the Appeal Brief, Appellants respectfully submit that the Final Office Action and the Examiner's Answer fail to even state a *prima facie* case under Section 103. Accordingly, reversal of the final rejection of all claims is respectfully requested.

Dated: February 14, 2007

Respectfully submitted,

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